

### REMARKS/ARGUMENTS

Favorable reconsideration of this application, in view of the above amendments and following remarks, is respectfully requested.

Claims 1-2, 4-12, and 14-20 are pending in this application. Claims 1, 2, 10-12 and 20 are amended, support for which is found in the originally filed disclosure, including the original claims, the drawings at least in Figs. 47-51, and the specification at least in the sections describing Figs. 47-51, e.g., section 10. No new matter has been added.

In the outstanding Office Action, Claims 1, 2, 4-12 and 14-20 were rejected under 35 U.S.C. §112, second paragraph; Claims 1-2, 4-6, 8-12, 14-16 and 18-20 were rejected under 35 U.S.C. §103(a) as unpatentable over U.S. 2001/0032088 (Utsumi) in view of U.S. 6,512,722 (Kumagai) and U.S. 6,288,862 (Baron); and Claims 7 and 17 were rejected under 35 U.S.C. §103(a) as unpatentable over Utsumi in view of Kumagai, Baron and U.S. 2002/0161571 (Matsushima).

A personal interview was conducted with Examiner Schwartz on January 7, 2010, to discuss the claimed invention and the outstanding Office Action. Applicant thanks the Examiner for his time and comments. At the interview, the Examiner indicated that the proposed clarifying amendments, which are submitted herewith, appeared to obviate the rejections in view of Utsumi, Kumagai and Baron, but stated further search and consideration would be necessary. Specifically, the Examiner stated a Request for Continued Examination (RCE) would be necessary to enter the amendment submitted herewith. Consequently, an RCE accompanies this filing.

Regarding the rejection under 35 U.S.C. §112, second paragraph, Claim 1 is amended to recite:

A content data transferring system for transferring content data comprising:

a first recording medium on which a plurality of content data are recorded;

a recording and reproducing apparatus configured to reproduce a recording medium identification information unique to a second recording medium and recorded on the second recording medium, to reproduce ***an existing reproduction control information recorded on the second recording medium identifying content data recorded on the second recording medium***, and to record content data transferred from the first recording medium onto the second recording medium;

a first set creating device configured to create a first set, the first set correlating the recording medium identification information with a second set, ***the second set categorizing the plurality of content data recorded on the first recording medium in accordance with a predetermined rule into a group of content data***, so that the recording medium identification information correlates to the group;

a second set creating device configured to create the second set correlated with the first set;

***a reproduction control information creating device configured to create a new reproduction control information for the group based on the second set and the recording medium identification information, the new reproduction control information identifying content data categorized into the group by the predetermined rule; and***

***a content transfer controlling device configured to transfer content data, in response to a comparison of the existing reproduction control information with the new reproduction control information, to the second recording medium which is categorized by the predetermined rule into the group and not recorded on the second recording medium.***

[Emphasis added].

As previously recited in Claim 1, the plurality of content data recorded on the first recording medium is ***categorized in accordance with a predetermined rule***. As amended herewith, Claim 1 is clarified to specifically recite categorizing the plurality of content data in accordance with a predetermined rule ***into a group of content data***. Similar clarification is incorporated into Claim 11.

The Office Action indicated that the “category” would be interpreted as a block or segment including data. It is unclear as to how this interpretation is suggested by the claims. Regardless, as submitted at the interview, it is respectfully submitted the amendment submitted herewith overcomes this incorrect interpretation, and the rejection under 35 U.S.C.

§112, second paragraph, is thus overcome regarding Claims 1 and 11 (and any claims depending therefrom).

Further, Claim 1 recites creating new reproduction control information for the group, the new reproduction control information identifying content data categorized into the group by the predetermined rule. Content data is transferred, in response to a comparison of the new reproduction control information with the existing reproduction control information already recorded on a second recording medium, to the second recording medium which is categorized into the group by the predetermined rule (and thus identified by the new reproduction control information) and not recorded on the second recording medium (and thus not identified by the existing reproduction control information). Consequently, the content data of a particular second recording medium (e.g., a removable disk of a portable device)<sup>1</sup> is updated in accordance with the predetermine rule, such as a rule directed to songs which have been most often listened to within the past week.<sup>2</sup> As recited in Claims 9 and 10, this may be implemented such that new reproduction control information is created each time the second recording medium is loaded into the recording apparatus, such that the content on the second recording medium is kept up to date with respect to the predetermined rule.

Regarding the rejection under 35 U.S.C. §103(a) in view of Utsumi, Kumagai and Baron, the Office Action alleges Kumagai describes categorizing a plurality of content data recoded on a first recording medium in accordance with a predetermined rule.<sup>3</sup> However, as noted in the previously filed response and discussed at the interview, Kumagai merely describes: when ripping a CD to a computer, transferring table of contents information from the CD in order to receive album details of the CD and display such details to a user (e.g.,

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<sup>1</sup> See, e.g., Fig. 49.

<sup>2</sup> *Id.*

<sup>3</sup> Office Action, page 4 (*citing Kumagai*, column 23, lines 45-63, column 24, lines 16-23, and column 25, lines 20-24).

track numbers, album art, etc.). Kumagai does not describe or reasonably suggest the “categorizing” recited in Claim 1.

The Office Action further alleges that Baron describes categorizing based on a predetermined rule, but the Office Action’s rationale stems from the above-noted improper interpretation of “category” as a block or segment including data. Since this interpretation is overcome, as discussed above, it is respectfully submitted Baron should be withdrawn as a reference. Otherwise, it is respectfully submitted Baron does not remedy any of the above-noted deficiencies of the other cited references, because Baron merely describes a process of including a write count to a header of a block of data to distinguish new information from old information.<sup>4</sup>

In summary, it is respectfully submitted the art of record fails to disclose or reasonably suggest the “categorizing the plurality of content data recorded on the first recording medium in accordance with a predetermined rule into a group of content data,” creating “a new reproduction control information for the group,” and transferring “content data, in response to a comparison of the existing reproduction control information with the new reproduction control information, to the second recording medium which is categorized by the predetermined rule into the group and not recorded on the second recording medium,” as recited in Claim 1.

Although directed to a different statutory class and varying in scope, Claim 11 recites features which are also not disclosed or reasonably suggested by the art of record for substantially the same reasons as noted above regarding Claim 1. Therefore, it is respectfully submitted Claims 1 and 11 (and any claims dependent therefrom) are allowable over the cited references. Should the Examiner disagree, the Examiner is encouraged to contact the

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<sup>4</sup> Baron, Abstract.

undersigned to resolve any remaining issues. Otherwise, withdrawal of the outstanding rejections is earnestly solicited.

Consequently, in view of the present amendment and in light of the above comments, the pending claims are believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

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Respectfully submitted,

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